

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3594 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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M K TRAVELS

Versus

REGIONAL TRANSPORT OFFICER

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Appearance:

MR DM THAKKAR for Petitioner  
MR MA BUKHARI for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/08/2000

ORAL JUDGEMENT

#. Challenge has been made by petitioner to the order annexure-F dated 11th May 1992, under which, the petitioner was directed by Regional Transport Officer to remove sleepers from the bus failing which the registration of the bus shall be cancelled.

#. Manifold contentions have been raised by learned counsel for the petitioner challenging the validity of this order but as this writ petition deserves to be allowed only on the ground that this order has been passed without notice and opportunity of hearing to the petitioner, it is not necessary to deal with all those contentions and to give any finding thereon.

#. In paragraph-5 of the special civil application, the petitioner made a categoric statement of fact that the order impugned has been passed by respondents without giving any notice and opportunity of hearing to the petitioner. Reply to the special civil application has been filed by respondents and averments made by petitioner in paragraph-5 of the special civil application were replied in the following terms:

"5. With reference to paragraph 5 of the petition I deny that the respondent No.1 is charging taxes at the double rate in view of the additional arrangements for sleeper berths in the buses. I say that each sleeper berth has been treated as two seats and accordingly the tax under section 3A of the Bombay Motor Vehicles Tax Act, 1958, has been charged on that basis."

#. So it is not denied by respondents that before passing the impugned order any notice or opportunity of hearing is given to the petitioner. The order has adverse civil consequences as in pursuance of the same, the petitioner has to discontinue its sleeping facilities to be provided to the travelling passengers. The respondents have to pass the order only after following principles of natural justice. Only on this ground, this petition succeeds and the same is allowed and the order Annexure-F, is quashed and set aside. However, it is open to the respondents to pass appropriate order in accordance with law after giving notice and opportunity of hearing to the petitioner. Rule is made absolute accordingly. No order as to costs.

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(sunil)